

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

**CALVIN A. GREEN,
Petitioner,**

v.

**CIVIL ACTION NO. 3:05CV3
CRIMINAL ACTION NO. 3:02CR26-2
(BROADWATER)**

**UNITED STATES OF AMERICA,
Respondent.**

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge James E. Seibert (Doc. No. 249), dated March 23, 2006, and petitioner's corresponding objections (Doc. No. 252, 253), filed April 17th and 19th of 2006. Pursuant to 28 U.S.C. § 636(b)(1), this Court conducted a de novo review of the above. As a result, the Court is of the opinion that the **Magistrate Judge's Report and Recommendation (Doc. No. 249)** should be, and is hereby, **ORDERED** adopted.

The Court further **ORDERS**

- 1) that the United States' Motion to Dismiss (**Doc. No. 231**) is **GRANTED**; and
- 2) that petitioner's § 2255 motion (**Doc. No. 220**), is **DENIED** and **DISMISSED**

WITH PREJUDICE based on the reasons set forth in the Magistrate Judge's Report and Recommendation. It is further **ORDERED** that this action be and is hereby **STRICKEN** from the active docket of this Court.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record herein.

DATED this 20th day of October, 2006.


W. CRAIG BROADWATER
UNITED STATES DISTRICT JUDGE